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04-23-03

DT16 PCT/PTO 22 APR 2003

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PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

(Small Entity)

Docket No.

19978-088796

In Re Application Of: Ward et al.



Serial No.

10/031,862

Filing Date

March 9, 2001

Examiner

Anthony Smith

Group Art Unit

Invention: METHOD FOR CONTROLLING IGNITION OF AN INTERNAL COMBUSTION ENGINE

22 APR 2003

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the Office Action of January 22, 2003 in the above-identified application.
Date

The requested extension is as follows (check time period desired):

☒ One month ☐ Two months ☐ Three months ☐ Four months ☐ Five months

from: March 22, 2003

Date

until:

April 22, 2003

Date

A verified statement of small entity status as a small entity under 37 CFR 1.27:

- ☐ is enclosed.
☒ has already been filed in this application.

The fee for the extension of time is \$55 and is to be paid as follows:

- ☐ A check in the amount of the fee is enclosed.
☒ The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 50-1759
A duplicate copy of this sheet is enclosed.
☒ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. 50-1759 A duplicate copy of this sheet is enclosed.

Signature

Dated: April 22, 2003

David J. Simonelli, (Reg. No. 36,680)
Clark Hill PLC
500 Woodward Avenue
Suite 3500
Detroit, MI 48226-3435
(313) 965-8667

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OFFICE OF PETITIONS

I certify that this document and fee is being deposited on _____ with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence

cc:

CERTIFICATE OF MAILING BY EXPRESS MAIL

EXPRESS MAIL LABEL NO. **EL738856689US**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on April 22, 2003, and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

By: Andrea Y. Downing
Andrea Y. Downing

Attorney Docket No. 19978-088796



#6

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit:

Examiner: Anthony Smith

Applicant: Ward et al.

Serial No: 10/031,862

Filing Date: March 9, 2001

Priority Date: March 9, 2000

For: METHOD FOR CONTROLLING IGNITION OF AN
INTERNAL COMBUSTION ENGINE

RENEWED PETITION UNDER 37 CFR §1.47(b)

Assistant Commissioner for Patents
Washington, DC 20231

Dear Sir:

In response to the Decision on Petition mailed January 22, 2003, Applicant hereby requests the Assistant Commissioner to reconsider the petition to treat the joint inventor, James D. Meaney, as hostile for refusing to forward the executed Declaration/Power of Attorney under 37 CFR §1.63 to the office of the undersigned for eventual filing with the United States Patent and Trademark Office. Applicant also requests the non-statutory period for the response to the decision to be extended one month beyond the two-month period. Sufficient funds are enclosed herewith via the enclosed credit card form. Should the amount prove insufficient, the undersigned provides authorization to charge the deposit account of the undersigned.

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OFFICE OF PETITIONS

The facts surrounding the Declaration/Power of Attorney are as follows:

1. Mr. James D. Meaney ("Meaney") of 4352 Fenton Road, Hartland, Michigan, is a joint inventor for the above-captioned patent application.
2. During Meaney's employment with Federal-Mogul Corporation, Meaney worked closely with the other co-inventor, Lance Ward.
3. Meaney left his employment with Federal-Mogul Corporation in 1999 after he co-invented the invention described in the above-captioned patent application.
4. A lawsuit between Meaney and Federal-Mogul Corporation ensued as a direct result of his voluntary termination of his employment.
5. During the lawsuit, it was acknowledged that Meaney and Ward co-invented the invention of this patent application.
6. As part of the settlement between Meaney and Federal-Mogul Corporation, Meaney executed a Declaration and Power of Attorney for the patent application on May 15, 2001.
7. As part of the settlement between Meaney and Federal-Mogul Corporation, Meaney executed an assignment, dated May 15, 2001, for the parent patent application from which above-captioned patent application claims priority, (Attachment 1). The assignment identified Lance Ward as a co-inventor. This is further evidence that he acknowledged the status of Lance Ward as a co-inventor.
8. Upon receiving the Notice of Missing Parts, Meaney was forwarded the patent application and a new Declaration/Power of Attorney that recognizes the joint inventorship. These documents were forwarded to Meaney on May 22, 2002, (Attachement 2).

9. Receipt of the letter is acknowledged by FedEx on June 21, 2002 stating Meaney signed for the package on May 23, 2002, (Attachment 3).

10. Meaney's telephone numbers were located on June 12, 2002. Calls were placed to two different telephone numbers on June 12, 14, 20 and 21, all of 2002, (Attachment 4). On June 21, 2002, Meaney answered the telephone and instructed us the documents were forwarded to his attorney and he would get back to us.

11. On August 21, 2002, the undersigned called Meaney. He instructed us to contact his attorney, Roger L. Myers ("Myers"). A telephone message was left with Myers to contact me to discuss the signing of the new declaration by Meaney. It was requested that a prompt response be made because a deadline was pending. His assistant acknowledged he was merely on the telephone and would call back when he finished his call. Myers did not call back.

12. On August 22, 2002, the undersigned again called Myers and left a message.

13. On or about March 31, 2003, the undersigned had a discussion with Myers regarding Meaney's willingness to execute the new declaration. Myers said Meaney had issue with his ability to purchase parts from the same manufacturer that supplies Applicant. This information was conveyed to Applicant.

14. Applicant stated that the purchase of parts by Meaney is possible but Applicant is under no obligation to provide parts in a manner that would give an economic windfall to Meaney. Regardless, Applicant offered to sell parts to Meaney even though Meaney would be a direct competitor of Applicant.

15. On April 7, 2002, the undersigned forwarded another copy of the complete patent application, including the specification, claims and drawings, along with a new copy of the

declaration/power of attorney, with a request to have Meaney execute the declaration and return it to the undersigned by April 22, 2003, (Attachment 5).

16. Proof of receipt of the letter dated April 7, 2003 is attached as Attachment 6.

17. On April 14, 2002, Applicant forwarded to Myers a letter confirming Applicant is willing to sell parts to Meaney, (Attachment 7).

18. Neither the undersigned nor the Applicant has heard from Meaney or Myers. An executed declaration has not been received.

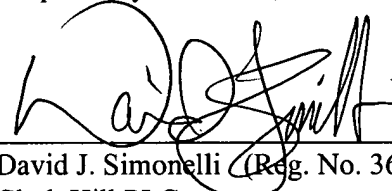
Meaney's home address is 4352 Fenton Road, Hartland, Michigan 48029. Applicant respectfully requests that the Assistant Commissioner accept the efforts of Applicant and allow Applicant to prosecute the patent application to its best ability as the patent application is an asset of Applicant. The granting of this petition is a necessary action to preserve the rights of TCI, the current assignee of the above-captioned patent application, to prevent the irreparable damage of loss of rights vis-à-vis priority to the invention disclosed in the above-captioned patent application. Enclosed herewith is a Combined Declaration and Power of Attorney form executed by the undersigned on behalf of Meaney.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this Petition is directed.

The Commissioner is hereby authorized to charge any overpayment or underpayment of the above fee associated with this Communication to Deposit Account No. 50-1759. A duplicate copy of this form is attached.

Respectfully submitted,

By:


David J. Simonelli (Reg. No. 36,680)
Clark Hill PLC
500 Woodward Avenue, Ste. 3500
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313-965-8300

Date: 22 April 03
Attorney Docket No: 19978-088796